

*Law, Literature, and Society in Legal Texts from Qumran:
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Temple Scroll
Molly M. Zahn

Introduction and Acknowledgements

The study of early Jewish law and legal literature was greatly expanded by the discovery of the Dead Sea Scrolls in 1947–1956. For the first time in history, a great amount of new material surfaced that dated back to an era prior to the emergence of rabbinic literature. Before this discovery, it had been the publication of the Cairo Damascus Document in 1910 that had sparked new hope of access to ancient halakhah.¹ Even with the discovery of the Scrolls, however, the field did not advance very rapidly and the early Scrolls scholars did not show much interest in the legal aspects of the texts. One reason for this is the late discovery and publication of some central legal documents, such as the Temple Scroll, and the lack of access to Cave 4 material by scholars. Another is that the Christian scholars who made up the initial editorial team lacked expertise in the comparative material, rabbinic law.² This is why Alex Jassen, in his research historical article on Jewish law in the Scrolls,³ places the “emergence of Jewish law as a field of Dead Sea Scrolls Scholarship” only in the 1970s. This decade saw the publication of Lawrence Schiffman’s dissertation on halakhah (1975),⁴ Yigael Yadin’s Hebrew edition of the Temple

¹ For an overview of the study of the Damascus Document prior to the discovery of the Scrolls, see Alex P. Jassen, “American Scholarship on Jewish Law in the Dead Sea Scrolls,” in *The Dead Sea Scrolls in Scholarly Perspective: A History of Research*, ed. Devorah Dimant with the assistance of Ingo Kottsieper, STDJ 99 (Leiden: Brill, 2012), 101–54.

² As Schiffman observes, early interpretations of the Scrolls tended to emphasize questions relevant to the development of either the Hebrew Bible or early Christianity, with the result that, prior to 1967, the Scrolls “were largely treated as a kind of curiosity” in relation to mainstream Judaism. See Lawrence H. Schiffman, “Halakhah and History: The Contribution of the Dead Sea Scrolls to Recent Scholarship,” in idem, *Qumran and Jerusalem: Studies in the Dead Sea Scrolls and the History of Judaism* (Grand Rapids: Eerdmans, 2010), 70.

³ Jassen, “American Scholarship on Jewish Law in the Dead Sea Scrolls,” 138. For a similar view, see Aharon Shemesh, “Trends and Themes in Israeli Research of the Halakhah in the Dead Sea Scrolls,” in Dimant, ed., *The Dead Sea Scrolls in Scholarly Perspective*, 345.

⁴ Lawrence H. Schiffman, *The Halakhah at Qumran*, SJLA 16 (Leiden: Brill, 1975).

Scroll (1977),⁵ and Joseph M. Baumgarten's pivotal volume of collected essays (1977).⁶ Another landmark came in the 1980s, with the introduction of 4QMMT into public awareness.⁷

Now scholars are much better equipped to understand the centrality of law in the study of the Scrolls. Cave 4 brought to light many more legal manuscripts. Still not very many scholars are experts in halakhah *per se*, but the field has, for example, embraced the idea that it was halakhic differences, not abstract theological dogma or high priestly ancestry, that set the Qumran movement apart.⁸ Moreover, the laws and rules are now more often taken as evidence of wider Second Temple positions and practices, not necessarily restricted to a marginal movement. The rules, *serakhim*, on the other hand, have often been distinguished from halakhah, but this is changing too.⁹ Scholars have been able to investigate legal issues, especially ritual purity, in light of the rules,¹⁰ and rules are taken as one corpus of evidence for the derivation of laws and techniques of legal interpretation. Rather than theological considerations, legal issues and practices have emerged as crucial facets of identity in Judaism. More broadly still, legal texts are increasingly conceptualized as key loci for understanding many different aspects of the religious and intellectual world of Second Temple Judaism, including scriptural interpretation, concepts of revelation, scribalism and text production, and the interactions or interrelationships between different groups or movements.

⁵ Yigael Yadin. *The Temple Scroll*, 3 vols. (Jerusalem: Israel Exploration Society, the Hebrew University, and the Shrine of the Book, 1977) (in Hebrew).

⁶ Joseph M. Baumgarten, *Studies in Qumran Law*, SJLA 24 (Leiden: Brill, 1977).

⁷ Jassen, "American Scholarship on Jewish Law in the Dead Sea Scrolls," 138. Shemesh, "Trends and Themes in Israeli Research of the Halakhah in the Dead Sea Scrolls," 347–48, mentions how many of these scholars consulted experts in rabbinic law for their work on the Scrolls.

⁸ See Lawrence H. Schiffman, "The Qumran Scrolls and Rabbinic Judaism," in idem, *Qumran and Jerusalem*, 4–5.

⁹ E.g., Sarianna Metso, "Challenging the Dichotomy between Halakhah and Community Legislation," in *Crossing Imaginary Boundaries: The Dead Sea Scrolls in the Context of Second Temple Judaism*, ed. Mika Pajunen and Hanna Tervanotko, PFES 108 (Helsinki: Finnish Exegetical Society, 2015), 61–70.

¹⁰ See, e.g., Shemesh, "Trends and Themes in Israeli Research of the Halakhah in the Dead Sea Scrolls," 350–51.

This volume exemplifies these various angles by which legal material from Qumran is now being approached. It includes essays originally presented at the IOQS meeting in Leuven in 2016, under the theme “Halakhic Texts and Rule Texts.” Some of the contributions focus on halakhah as such, while others engage more with the question of how the *yahad* construed its own halakhically-formed identity in relation to other groups within Second Temple Judaism. In a testament to the central place these texts now possess in our understanding of literary production in early Judaism, around half the essays in the volume focus on textual aspects of legal/rule manuscripts, in particular their development over time and engagement with existing written traditions.

The volume is aptly opened by **Lawrence Schiffman**’s article, “Second Temple Jewish Law in Light of the Dead Sea Scrolls: Widening the Paradigm.” He offers an overview of the study and significance of halakhah in the Scrolls, focusing on the topics of Sabbath, purity, and the question of origins of the law (whether derived from Scripture or whether Scriptural links were only secondarily attached to justify laws). He advocates the view that halakhah in the Scrolls reveals special priestly/Zadokite/Sadducean concerns. Schiffman reminds us how far we have come in the study of Jewish Law in the Second Temple period, and also urges scholars to take the next step: to treat the legal texts from Qumran, not as a distinct/distinctive entity, but as part of the larger halakhic landscape of early Judaism.

The connections between rabbinic halakhah and Qumran halakhah have produced a lot of scholarly interest and studies. Yet **Dennis Mizzi** manages to take up an issue that has hitherto not been investigated: the question if leather (and papyrus) scrolls (as artefacts) could be susceptible to impurity. Mizzi first argues that scrolls too were understood as part of כלים which is the central term in Torah legislation for listing artefacts in connection to purity laws. For the rabbis, the

impurity potential of various artefacts depended on several factors such as their raw material, degree of being processed, movability, function and use in work, human intention, and so on. Nevertheless scrolls, including sacred scriptures, were a special case since they were considered as permanently impure and defiling. In the Qumran evidence, by contrast, biblical legislation was interpreted in a literal or maximalist sense, making all human-made objects susceptible to impurity—including scrolls. This is then just one example of new halakhah created at the time of the Qumran movement, probably because of increased literacy and confusion over various views of how to apply earlier laws in practice.

Harry Fox addresses the matter of Second Temple halakhic debates from the angle of intergroup polemics, by offering a new interpretation of the well-known sobriquet דורשי החלקות. Without denying that the term most likely designates the Pharisees, Fox argues that the traditional rendering “seekers after smooth things” is less likely than a meaning linked to the root sense of חלק as “division”; thus “seekers of divisions/conflicts.” The philological argument is accompanied by a wide-ranging analysis of what the Qumranites might have meant by characterizing their opponents in such terms. While he rejects the common scholarly explanation of the sobriquet as a punning reference to Pharisaic halakhah, Fox nevertheless emphasizes that the *yahad*’s opposition to the Pharisees was rooted in halakhic differences; indeed in a fundamentally contrary understanding of the nature and origins of halakhah.

The contribution by **Gareth Wearne** likewise addresses questions of the Qumran community’s relations with other groups, but with an eye to possibly sympathetic groups rather than opponents. Building on recent challenges to the traditional interpretation of 4QMMT as a letter sent from the founders of the Qumran community at the time of their schism with Jerusalem authorities, Wearne flips the script even further, proposing that MMT may not have

originated with the *yahad* (or its direct forerunners) at all. He notes that the irenic tone of the document ill fits a construal of the document's addressees as opponents, and that, as Charlotte Hempel has made clear, there is no good evidence for schism between MMT's authors and the Temple authorities at all: the famous reference to "separation" in the text's epilogue need not be interpreted as physical separation but could merely involve specific halakhic practices. The image of MMT as a communication between two parties sympathetic to one another opens the possibility that the *yahad*, or some earlier version thereof, were the *addressees* of MMT, rather than its authors. In other words, MMT may have originated as a letter sent *to* the *yahad* by a group which similarly objected to certain halakhic practices, but did not reject worship at the Temple (a group Wearne associates with the ideology of the Damascus Document). Such a scenario, Wearne argues, might better explain the preservation of MMT at Qumran, as well as shed light on the early history of the *yahad* and the interrelationships between MMT, D, and the Serekh materials, but from a different angle than typically imagined.

A cluster of contributions to the volume focuses on the Serekh traditions, with a special interest in issues of textual development. Particular emphasis is placed on the Treatise of the Two Spirits (1QS 3:12–4:26) and its place in the textual history of 1QS and, by extension, the intellectual history of the *yahad*. The Treatise as we know it from 1QS is an intriguing text that clearly has a "doctrinal" flavor to it: It is no surprise that it was considered to reveal the most unique characteristics of Qumran theology. Yet, when the 4QS manuscripts were published and the Treatise was poorly represented in them, scholars began to ask how central the Treatise actually was in the teachings of the Qumran movement.

Furthermore, the origin of the Treatise is a focus of ongoing debates. First, it was remarkable that the kind of dualism that was earlier attributed to Hellenistic influence in some

New Testament writings was now discovered in an early Jewish text. The origin of the dualism in the Treatise was then traced to Iranian influence,¹¹ and the Treatise was suggested to have had an earlier (“pre-sectarian”) existence, independent of the rest of the rule materials.¹² In the next turn, the nature of the dualism in the Treatise was specified and different types of dualisms were identified within it that did not necessarily derive from one single origin.¹³ This implied that the Treatise itself may have been created in multiple stages, although many scholars were reluctant to identify clear-cut redactional layers.¹⁴ The scholars who engage this question here (forming a kind of Göttingen school of *Fortschreibung*) are all critical of the idea that the Treatise would have had an independent life before its incorporation into the Serekh.

According to **Peter Porzig**, the observations of the distinct nature of the Treatise are still valid, but if the theory of its pre-sectarian existence is not accepted, an alternative explanation for the Treatise must be sought. Porzig identifies terminological links between the Treatise and its context, both 1QS 1–3 and 1QS 5–11 (especially 5–7). Instead of scribes having known an earlier Treatise tradition, Porzig argues for the possibility that the scribes of the Treatise used the language from the earlier rule traditions to solve the problems present in their thought world and social reality; yet, the distinctive style of the Treatise shows that these scribes were not the same ones as the other rule scribes. Porzig thus regards the Treatise as a *Fortschreibung* of earlier forms of S.

¹¹ Albert De Jong, “Iranian Connections in the Dead Sea Scrolls,” in *The Oxford Handbook of the Dead Sea Scrolls*, ed. John J. Collins and Timothy H. Lim (Oxford: Oxford University Press, 2010), 479–500, discusses the fluctuation in Qumran scholarship to either deny or embrace the Iranian influence.

¹² E.g., Hartmut Stegemann, “Zu Textbestand und Grundgedanken zu 1QS III,13–IV,26,” *RevQ* 13 (1988): 95–131.

¹³ E.g., Jörg Frey, “Different Patterns of Dualistic Thought in the Qumran Library,” in *Legal Texts and Legal Issues: Proceedings of the Second Meeting of the International Organization for Qumran Studies, Cambridge, 1995; Published in Honor of Joseph M. Baumgarten*, ed. Moshe J. Bernstein, Florentino García Martínez, and John Kampen, STDJ 23 (Leiden: Brill, 1997), 275–335.

¹⁴ For a recent overview of research history of the Treatise and its evaluation, see Gwynned De Looijer, *The Qumran Paradigm: A Critical Evaluation of Some Foundational Hypotheses in the Construction of the Qumran Sect*, EJS 43 (Atlanta: SBL Press, 2015), 189–252.

While Porzig focuses on the relationship between the Treatise and its context in 1QS, **Meike Christian** reconstructs the textual growth of the Treatise itself in light of parallels with Instruction and the Hodayot. The theory is based on previous observations, especially that only parts of the Treatise (1QS 3:13–18 and 4:15–26) share strong similarities to Instruction and the Hodayot. Christian first studies these connections and argues that the Treatise is further developing ideas in the Hodayot and Instruction. She then examines the Treatise in more detail for its literary seams and layers. In the end, Christian presents a theory of major literary stages where the original core (1QS 3:13–14a*, 3:15b–18a + 4:15–23a) was expanded in the middle (with 1QS 3:18–4:14) as well from the end (1QS 4:23–26), with some further nuances. These stages transform the basic scheme of the composition. Whereas the focus was first on creation and the divinely predetermined course of history, the Treatise then became more and more coloured by various kinds of divisions (dualisms) as the lists of vices and virtues, cosmic struggle, and finally the inner struggle within the human being were added. How and when this literary growth took place is not yet discussed in this article, though Christian’s work fits well with Porzig’s proposal that the Treatise was composed for its context in 1QS.

James Tucker continues the focus on the compositional development of the Serekh materials, now examining a case where the expansion of S with the Treatise and the other materials now present in 1QS 1–4 may have led to textual changes elsewhere in the document. Tucker begins from one concrete intervention: he demonstrates persuasively that 4QS^b 5a-b 12 cannot be reconstructed according to the parallel text in 1QS 6, and suggests that 4QS^b most likely lacked a clause present in 1QS at this point. Though explanations such as haplography or deliberate omission might be considered here, as they have been for other minuses in 4QS^{b,d} over against 1QS, Tucker argues that the clause represents a secondary addition in 1QS vis-à-vis an

earlier text form represented by 4QS^b. He defends his argument through a semantic analysis of the clause in comparison to the Treatise of the Two Spirits. The plus, he demonstrates, picks up key epistemic ideas found elsewhere in S only in 1QS 1–4 (and the Treatise in particular). Thus it can be explained as an attempt to clarify the legal passage in light of new theological ideas.

The Treatise, along with other portions of the Serekh, is one of the texts ascribed to the *maškil*. This figure and its implications for the nature and inner structure of the Qumran movement is the subject of the contribution by **Michael Jost**. It is well known that the *yahad*, despite its emphasis on unity and gathering together a true community, presents itself as hierarchical in its entry ritual and decision making. Yet, liturgical communion with angels is one central aspect of the community's stress on unity, insofar as hierarchical distinctions become blurred. Jost argues that the teachings and performances of the *maškil* play a special role in this unity: the *maškil*'s role as a liturgical performer and a teacher represents the unity of the members; the *maškil* is not a leader figure or mediator but rather a servant or ideal-typical character. It is significant that his teachings are put into writing, as this demonstrates that the personality of the *maškil* is not important but the task of teaching is. Jost's analysis thus raises questions of authority: that the movement preserved so many writings in the name of/addressed to the *maškil* might be taken to demonstrate a sort of Weberian "bureaucratic authority"—the formulated principles and recordings are important, not the personal charisma or (priestly or otherwise high-status) pedigree of the teacher. Priests still stand high in the hierarchical structure of the movement, but this is, according to Jost, due to the attempt to integrate them into the union rather than to ensure their power over others.

Two final contributions shift to another of the key legal texts known from Qumran, the Temple Scroll. Given that the Temple Scroll is constituted largely through rewriting, a full

understanding of the authors' halakhic stances requires particular engagement with questions pertaining to the Scroll's use of earlier texts. **Tova Ganzel** sheds light on the Temple Scroll's ideological perspective by challenging the dominant scholarly tendency to construe this text largely in terms of its rewriting of the Pentateuch. She argues that the book of Ezekiel also played a substantial role in the composition of the Temple Scroll, especially influencing the author's conception of the holiness of the future utopian temple. She points to the use of similar language regarding sanctity and the divine presence, similar concerns to safeguard the holiness of the future temple, and similar attempts to sever the link between the utopian future temple and the physical city of Jerusalem.

Finally, **Molly Zahn** discusses the influence and sources of the Temple Scroll and questions the often assumed dependence of the Temple Scroll on the books of Chronicles. What is at stake is not only the general understanding of the ideological world of the Temple Scroll, nor the dating of the Temple Scroll (if it drew on Chronicles, it must have been later than Chronicles), nor possible connections to Jerusalem and the Hasmoneans (associated with Chronicles), but a wider conceptual question of privileging canonical books over non-canonical ones. This canonical prioritizing has led most scholars to take it as a given that Chronicles was readily known and valued by the Temple Scroll authors. Instead, Zahn argues that both Chronicles and the Temple Scroll could be seen as employing similar rewriting practices, drawing on earlier written traditions. She demonstrates this with two case studies. First, the Levites have a prominent role in both Chronicles and the Temple Scroll, but the comparison of these and other texts provides no reason to regard Chronicles in this case as the source for the Temple Scroll. The second case study is the appointing of the royal council in 11QT^a 57 which, in contrast to the ostensibly similar royal court described in 2 Chronicles 19, substantially

constrains the king's role. Instead of the Temple Scroll depending here on Chronicles, as has often been suggested, Zahn argues that the similarities between the two result from the fact that both texts drew on the same source text in Deuteronomy, albeit for quite different purposes.

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